

R. Bankr. P.7056);

AND, under Rule 56, where the movant is the defendant, or the party without the burden of proof on the underlying claim, the movant still has the initial burden of showing the court the absence of a genuine issue of material fact, but this does not require the movant to support the motion with affidavits or other materials that negated the opponent's claim, see In re Newman, 304 B.R. 188, 193 (Bankr. E.D. Pa. 2002);

AND, here, the Movants (the Defendants) having submitted sufficient evidence in support of their position that there are no material issue of material fact and that they are entitled to judgment as a matter of law;

AND, the Plaintiff having failed to submit any evidence in opposition to the Motion;

AND, the court therefore concluding that the Defendants are entitled to summary judgment, see, e.g., Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986) (if the movant meets this initial burden, the responding party may not rest on his or her pleadings, but must designate specific factual averments through the use of affidavits or other permissible evidentiary material that demonstrate a triable factual dispute); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-50 (1986) (same);

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It is therefore **ORDERED** that the Motion is **GRANTED** and that judgment is entered in favor of the Defendants and against the Plaintiff on all claims asserted in the Plaintiff's Complaint.



Date: February 25, 2010

ERIC L. FRANK
U.S. BANKRUPTCY JUDGE

cc: Thomas W. Olick
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